



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL

September 9, 1974

The Honorable Raymond W. Vowell  
Commissioner,  
State Department of Public Welfare  
John H. Reagan Bldg.  
Austin, Texas 78701

Open Records Decision No. 49

Re: Identity of complainant in  
child abuse investigation.

Dear Commissioner Vowell:

Pursuant to § 7(a) of the Open Records Act, Article 6252-17a, V. T. C. S., you ask whether the case record concerning a complaint of child abuse is excepted from disclosure. The request for the record is made by the individual complained against, and the particular information sought is the identity of the complainant.

Section 3(a)(1) of the Open Records Act excepts from disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision."

There is a well-established common law privilege protecting the identity of informers who communicate information to the government concerning the commission of crimes. It is founded on the theory that effective detection of crime requires assistance from private citizens and the feeling that such cooperation will not be forthcoming unless informers are assured that their identity will be kept secret. 1 C. McCormick & R. Ray, Texas Evidence § 503 (2d ed. 1956); 8 Wigmore, Evidence § 2374 (McNaughton Rev. 1961); McCray v. Illinois, 386 U. S. 300 (1967); Scher v. United States, 305 U. S. 251 (1938), noted in, 17 Texas L. Rev. 522 (1939). The privilege is recognized and applied in Texas: e. g., Hawthorne v. State, 10 S. W. 2d 724 (Tex. Crim. App. 1928); Ware v. State, 467 S. W. 2d 256 (Tex. Crim. App. 1971).

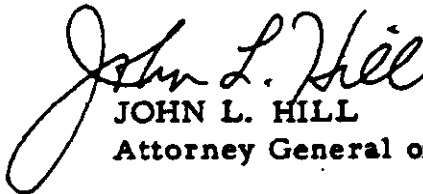
Texas' strong public policy of encouraging reports of suspected child abuse to law enforcement authorities is demonstrated by our statutes

which require such reports to be made [§ 34.01, Family Code, V. T. C. S. ], which punish failure to report [Article 695c-2, § 9, V. T. C. S., see also, Attorney General Opinion H-237 (1974)], and which provide immunity for making reports [§ 34.03, Family Code. V. T. C. S. ].

You state that you believe that disclosure of the identity of a complainant would discourage such reports, and increase the percentage of anonymous reports, if made at all. The public policy grounds supporting the privilege are amply demonstrated here.

It is our decision that information in the case record concerning a complaint of child abuse which would reveal the identity of the complainant is excepted from disclosure under the Open Records Act by § 3(a)(1), as information deemed confidential by judicial decisions recognizing the informer's privilege.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
C. J. CARL, Staff Legislative Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee